

M E M O R A N D U M

DATE: February 24, 2011

TO: Policy Committee

FROM: Jason Purse, Senior Planner

SUBJECT: Multiple Use districts ordinance changes

I. Introduction to Memo

There are three multiple use districts in James City County: MU, Mixed Use; R-4, Residential Planned Community; and PUD, Planned Unit Development. Since the ordinance language allows both residential and commercial/industrial development there are a wide variety of possible options for developers to propose. Throughout the Comprehensive Plan update process, as well as through the public forums on the Zoning Ordinance update process, concerns have been raised over the predictability of the MU district. Some of these concerns are addressed during the legislative review of cases (by way of a binding master plan); however, there may also be ways to enhance the ordinance to achieve a more balanced mix of uses while still providing flexibility to the overall project.

The purpose of the multiple use districts is to promote efficient use of land, allow various densities and land uses, while protecting surrounding property and protecting the natural features and scenic beauty of the land. Furthermore, these districts are focused on promoting multiuse master planned communities in accordance with the uses and intensities described for the specific areas in the Comprehensive Plan.

Staff has also included a number of the same suggestions as proposed for the Economic Opportunity district. Furthermore, the sustainability audit provided a number of suggestions for making the multiple use districts more sustainable in the future. Staff requests the Policy Committee's guidance on which measures may be the most appropriate in providing the predictability desired in the multiple use districts.

II. Discussion Items

A. Balance of Land Uses

1. Description of issue/problem

- *While residential development can be an important part of a development in terms of providing households to patronize the commercial uses and workers to be employed there, it is important to ensure that a mixed use rezoning provides an adequate mixing of uses. In the past, some developments have focused more on the residential side of the development, in order to benefit from the relaxed dimensional standards of the ordinance. It is important to note that not all Mixed Use zones are the same. There are very detailed descriptions of the Mixed Use areas in the Comprehensive Plan. All the descriptions provide both primary and secondary use suggestions, so any rezoning should follow closely to the language provided. Not all Mixed Use areas are appropriate*

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for a certain blend of uses; in fact, some areas may be more predominantly residential, and some may be more industrial (with very limited residential). There is no “magic” number for a balance of uses that would fit all of the comprehensive plan descriptions for the Mixed Use areas in the County.

2. History

- *The Mixed Use zoning district was created and will be needed in the future to allow a mix of both commercial/industrial and residential uses. There have been concerns that the Mixed Use zoning district does not provide enough certainty with respect to actually achieving a mix of uses in a development. Mixed Use is viewed by many as a means to achieve maximum density by promising positive cash flow through commercial development. That often does not occur in the manner it was initially described or proposed. Tighter residential limits should be addressed in proffers through phasing.*

3. Comprehensive Plan GSAs, public input, and PC and BOS direction

- *LU-4.6-Encourage developments which provide mixed use development, as further defined in the Mixed Use land use designation and development standards, within the PSA. Support design flexibility to promote mixing of various types of residential and non-residential uses and structures.*
- *LU 1.5-Facilitate continued diversification of the local economy and maintain an adequate balance between residential and non-residential development.*
- *The Chamber and Tourism alliance and the EDA provided comments on mixed use developments, particularly in reference to economic development opportunities.*
- *Mark Rinaldi and Rich Costello spoke about mixed use and redevelopment opportunities.*
- *JAC and Deborah Kratter spoke about mixed use developments, the Comprehensive Plan and citizen’s expectations for multi-use projects.*

4. Solutions and policy options

- *A balance of land uses section could include language that would limit not more than 70% of the development area to one-single use. For instance, in Newberry Florida, the ordinance includes the following language:*

To achieve the intent of a mixed use development, no single use shall exceed 70 percent of the permitted uses within a mixed use zoning district.

North Las Vegas has a similar description (albeit for no more than 75% of the site dedicated to one use), but also includes some other possible ways to encourage a true mix of uses, such as the following:

Mix of Uses.

- a. All mixed use development shall include a minimum of two different land use types, which may include commercial, residential, office, and/or employment uses. Ideally, no one land use type should occupy more than seventy-five (75) percent of a site, but the appropriate mix for each site shall be considered by the city on a case-by-case basis, with primary consideration given to variables such as location, site design, and compatibility with adjacent development.**
- b. Mixed use development may include vertical mixed use (i.e., any combination of compatible uses in a single structure) or horizontal mixed use (i.e., any combination of compatible uses arranged side-by-side on a single site).**

- c. To create and maintain active and interesting pedestrian areas, commercial buildings located within horizontal mixed use development shall include a minimum of two individual retail uses per block length. Each retail use shall have a separate entrance. For the purpose of this section, "block length" means the pedestrian area between two streets and/or drive aisles.
 - d. Mixed use buildings with residential uses planned for the second story and higher shall have retail, commercial or office uses on the ground floor. Lobby areas serving upper story residential uses may also be located on the ground floor, provided that such lobby areas occupy no more than fifty (50) percent of the available floor space. All non-residential ground floor uses shall be compatible with residential uses.
5. Staff Recommendations
Staff recommends including specific language in the ordinance to promote a true mixing of uses. Staff believes that having specific information in the ordinance language counting mixed use buildings (either horizontal or vertical) would help clarify, but also believes that a less specific section could also still provide the flexibility for developers to tailor projects to the needs of the community. Staff believes the threshold (in this instance 70 or 75%) for a single-use is the most important piece to include in an ordinance.

B. Construction Phasing

1. Description of issue/problem
 - *Historically, mixed use developments in the County have had their residential and commercial/industrial components develop at different rates. Projects, such as the Lightfoot Mixed Use plan, have seen large percentages of the residential development completed, while sections of the commercial development have yet to be realized. This alteration from the approved development plan can have adverse effects on the proposed fiscal impact analysis that was presented to the Board of Supervisors during the legislative review process. While there is currently no fixed policy or ordinance requirement some projects have included proffers (i.e. Stonehouse) that deal with this topic. In an effort to ensure that developments are providing the benefits to the County that were presented during legislative review, staff has investigated alternative ways to ensure an adequate construction phasing plan. A similar discussion was included in the Economic Opportunity framework.*
2. History
 - *The York County Zoning Ordinance has language in its Mixed Use zoning district that addresses construction phasing, and that model will be discussed in greater detail below.*
3. Solutions and policy options
 - *Below is an example construction phasing section taken from the Mixed Use section of the York County, VA zoning ordinance.*

Construction within the Major PDMU development shall be sequenced in accordance with a project build-out schedule conceived by the project developer, submitted for review as a part of the initial application, and approved by the board of supervisors. The purpose of such development schedule shall be to provide assurance to the board of supervisors that the project will, in fact, include both the proposed non-residential and residential elements at certain project milestones and/or at build-out. As a

guideline, project proposals that adhere to the following sequencing requirements will be considered consistent with the objectives of the board of supervisors:

- Up to 20% of the residential units may be constructed prior to commencing any commercial construction; and
- Construction of the next 40% of the residential units shall be sequenced in conjunction with construction of at least 40% of the commercial space; and
- Prior to issuance of Building Permits for construction of the final 20% of the residential units at least 80% of the commercial space shall have been completed to the stage that it is ready for individual tenant fit-out and customization.

4. Staff recommendation

Staff recommends considering the inclusion of a construction phasing section with the Mixed Use ordinance, similar to that proposed for the EO district. Furthermore, the model York County phasing requirements could be a starting point for actual ordinance language.

C. **Complementary Design**

1. Description of issue/problem

- *Many successful industrial parks, mixed use communities, and retail centers have a unified design. This can include pedestrian connectivity, focal open spaces, and similarly designed architectural features. A development that incorporates these design features will help to better integrate with the surrounding community, as well as create a sense of place.*

2. History

- *Many of the existing Mixed Use areas (on the Comprehensive Plan Land Use Map) are located at important interchanges or Community Character Corridors in the County. Respecting these viewsheds and corridors will be important to any development (as referenced in the Comprehensive Plan).*

3. Comprehensive Plan GSAs, public input, and PC and BOS direction

- *Mixed Use Land Use Description-Development should be designed to encourage trips by alternative transportation modes and should be concentrated on portions of the site to avoid sensitive environmental features and respect viewsheds from historic and Community Character areas and corridors.*
- *LU 2.1-Plan for and encourage the provision of greenways, sidewalks, and bikeways to connect neighborhoods with retail and employment centers, parks, schools, and other public facilities to effectively connect buildings and activities within individual sites.*
- *CC 3.8-Design streets in commercial/retail centers and residential areas to better encourage street-level activity and a safe and attractive pedestrian environment by encouraging the use of tools such as traffic calming, pedestrian-scale amenities, gathering spaces, pedestrian plazas, street trees, pocket parks, and consolidated entrances with fewer curb cuts. Develop voluntary guidelines that can be used through the special use permit or rezoning process.*

4. Solutions and policy options

- *Complementary design can be incorporated into the ordinance to promote an integrated design with similar architecture, focal open spaces, and pedestrian connectivity as encouraged during the development of the Comprehensive Plan. Additional examples were present in the Loveland, Colorado zoning ordinance:*

Campus-Type Character: E-Employment Center Districts are intended to have a “campus-type” character with strong unifying design elements meeting the following standards:

- 1. Unified Building Design:** Building design shall be coordinated with regard to color, materials, architectural form and detailing to achieve design harmony, continuity and horizontal and vertical relief and interest.
- 2. Unified Open Space:** Projects shall include a unifying internal system of pedestrian-oriented paths, open spaces and walkways that function to organize and connect buildings, and provide connections to common origins and destinations (such as transit stops, restaurants, child care facilities and convenience shopping centers). The development plan shall utilize open space and natural features that serve as buffers and transitions to adjacent area(s). Development plans shall include at least 20 percent of the gross site area devoted to common open space features, including features such as common area landscaped buffers, parks or plaza spaces, entrance treatments, natural areas, or wetlands, but excluding any open space or landscaped areas within required building setbacks or parking lots. Areas dedicated to storm water drainage may also be counted toward meeting the open space requirement, provided they are designed to be recreation space or as an attractive site feature incorporating a naturalistic shape and/or landscaping.
- 3. Other Unifying Features:** Major project entry points shall include well designed signage and entry features such as quality identity signage, sculpture, plazas, special landscape clusters, etc. The visibility of parking lots or structures shall be minimized by placement to the side or rear of buildings and/or with landscape screening. Shared vehicular and pedestrian access, shared parking, common open space and related amenities should be integrated into the project’s design. The overall design and layout shall be compatible with the existing and developing character of the neighboring area.
- 4. Viewshed Protection:** Care shall be taken to minimize disruptions to adjacent neighborhood views of open spaces or natural features through the sensitive location and design of structures and associated improvements. Visual impacts can be reduced and better view protection provided through careful building placement and consideration of building heights, building bulk, and separations between buildings.
- 5. Unified Design Agreement:** In the case of multiple parcel ownerships, an applicant shall make reasonable attempts to enter into cooperative agreements with adjacent property owners to create a comprehensive development plan that establishes an integrated pattern of streets, outdoor spaces, building styles and land uses consistent with the standards in this section.

An additional option would be to have a specific ordinance requirement for design guidelines. Many of the characteristics mentioned above could be required to be included, and legislative cases would be required to include the guidelines along with their master plan and rezoning application (similar to traffic studies and community impact statements).

5. Staff recommendation
 - *Staff recommends considering the inclusion of complementary design elements such as pedestrian connectivity, unified open space design, and coordinated building design with regard to color, materials, architectural form and detailing to achieve design harmony, continuity, and horizontal and vertical relief and interest.*

D. **R-4 Addition of land to an existing community**

1. Description of issue/problem
 - *During past rezoning cases, section 24-283 (and to a lesser extent 24-275) has been discussed with respect to the language “under the same ownership or control.”*

The whole section reads as follows:

“Additional land area may be added to an existing residential planned community if it is adjacent (except for public roads) and forms a logical addition to the existing residential planned community and if it is under the same ownership or control.”

County staff, including the County Attorney’s office and Zoning Administrator, has determined that “control” or “ownership” can reference control or ownership of a master plan/development plan of a community, or the land governed by the master plan. This means that the developer who owns the rights to a master plan can add to that master plan area, even if control of the original property has been passed off to individual owners through sale of lots.

2. Staff recommendation
 - *Staff does not recommend amending the language in this section. Staff believes allowing additional land to be added to a community through a legislative review process is still the correct process to follow and there are many instances where communities have expanded in the past.*

E. **Sustainability Audit** – The following list of recommendations was provided by the consultant in the sustainability audit. Due to the number of possible changes, staff has included a brief response after each item.

1. *Options should be provided for infill and redevelopment similar to the MU District, but that can be applied on smaller redevelopment sites as opposed to going through a long rezoning process to MU. A mixed use redevelopment option could be created for the business districts. This could allow for a mixture of uses and flexibility in dimensional requirements where the development is compact and walkable. **As discussed in the Form-Based Code memo, given the lack of by-right Mixed Use zoned property a Redevelopment district may be the best option for achieving this goal.***
2. *The PUD and MU districts should have provisions to set aside land for public facilities. This could be incentivized through density standards and allowing the developer to transfer the density from the public site to other areas of the PUD. **This process is typically handled during the rezoning/proffer process, as evidenced in the Colonial Heritage and Stonehouse developments. In some instances the County has determined that public facility sites are not appropriate or needed in certain locations and have needed the flexibility to receive different mitigation packages. If this is included as an ordinance requirement that flexibility is no***

longer an option. An additional option could be a density transfer incentive, where the developer would set aside an area for public facilities and the density that could be derived on those acres could be transferred elsewhere in the project. It should also be noted that if cash-in-lieu is used as a proffer, similar to Parks and Recreation proffers, the intended use must be specifically identified (i.e. CIP).

3. *The residential cluster development overlay district, PUD and MU districts should have a provision that the open space could be dedicated for public recreational land if there is a need at that location for a public park. This would not be a requirement, but could be an option that is incentivized through a density bonus in exchange for dedication of public park land and allows the developer to transfer the density from the publicly dedicated land to the remainder of the development. Currently the R-5 district provides a density bonus in exchange for public facilities. Providing park land or open space is important for all neighborhoods, and will continue to be a requirement in these districts. However, staff does not believe it is in the best interest of the County to have smaller-scale parks dedicated for public use. As it stands now, the individual Home Owners Associations are responsible for maintenance and upkeep of the facilities. If the parks are dedicated for public use, the burden may shift to the County for these services. Currently, the County uses proffers during legislative cases for acquiring larger pieces of property for parks and recreation if an acceptable parcels present themselves.*
4. *The PUD and MU districts should provide incentives for ground-floor retail and upper-level residential uses, such as allowing increased density for mixed use buildings. Staff could accommodate density bonuses in the ordinance by restructuring the base density in Mixed Use. There are a number of possible density bonuses to be discussed in this section. If each bonus was for a .25-.5 du/ac increase, the base density could be lowered commensurately, in order to offset any of the increases. Another option would be to include a list of all of the possible bonuses and provide a maximum density bonus if "X" number of the criteria are met. For instance, there could be a list of 7-10 possible items (i.e. mixed use buildings, LEED certified construction, affordable housing, etc.), and if the developer committed to three of the items they could receive a density bonus of 2 du/ac.*
5. *The MU district design standards should encourage general urban buildings that have a form that can be adapted to multiple uses. This could be done through design standards or a form-based code. Architectural review generally occurs legislatively and is specific to the project. Typically, mixed use buildings are designed to accommodate a variety of uses (i.e. Main Street in New Town). Furthermore, each development is different in terms of architectural style and design. A development in Toano is expected to look different than a development near New Town. There is not one example of architecture that could be applied County-wide. For James City County, Form-Based Codes would need to be tailored to a specific sub-area with distinct architectural character. The Toano design guidelines were only established after a long, intensive public meeting process in order to gain buy-in from the citizens on the true desired character desired for Toano. However, the design guidelines that are expected as a part of the rezoning process could be made to require this type of standard.*
6. *The MU district should require residential garages not project out in-front of the living portion of the dwelling, be located in the rear yard. The other residential districts should have limitations on front-loaded garages to limit the distance they can project in front of the dwelling and limit the percent of the front façade that is dominated by garage. Typically the ordinance*

will specify that the garage cannot occupy more than 50% of the length of the front façade and that the garage cannot project more than five feet beyond the living portion of the home. **This has not typically been a problem in Mixed Use as it has been in the residential districts. This could become a policy if there is support for it.**

7. Form-based or pedestrian-oriented design standards could be added to the MU and other districts requiring buildings oriented to the street at a pedestrian scale, with requirements for storefronts and other pedestrian-oriented elements. **As previously stated with the Economic Opportunity discussion, staff is envisioning including more detailed pedestrian oriented requirements to the Mixed Use ordinance.**
8. The PUD, MU and business districts should provide incentives such as increased height or density for energy efficient, LEED certified buildings and other sustainable building techniques. This could be included in the height increase criteria of secs. 24-496 and 24-525. **In conjunction with a possible change to the height limit modification criteria, a density bonus could be incorporated to achieve this goal, or it could be part of a list of possible bonuses as described in #4 above.**
9. *The LB, B-1 and MU districts require 50 foot front yard setbacks (which can be reduced). There may be some area where the Comprehensive Plan recommends creating a more pedestrian-friendly street and the setback could be further reduced and/or build-to requirements adopted with minimal front-yard parking. Staff believes this has already been accomplished in our ordinance. The Mixed Use language currently allows a setback reduction based on the specific guidelines, including the character of the area (i.e. pedestrian friendly streetscapes). This reduced setback has been accomplished in a number of Mixed Use areas, including New Town and Colonial Heritage.*
10. The MU district should require that parking be located to the side or rear of the site with the building at or near the sidewalk, with the allowance for other options or waivers for certain circumstances. **Staff does not believe this should be a requirement in the ordinance, but a possible incentive was presented during the review of parking requirements in the Development Standards section of the ordinance update.**
11. The R-4, PUD, MU and residential cluster districts should be used to encourage compact development on small lots. **Staff believes this suggestion is already accomplished in our ordinance. These zoning districts do not have minimum lot sizes and the density in these districts encourages compact development.**
12. The R-4 district, PUD and residential cluster overlay district should be used to encourage clustered development with compact lots. **Staff believes this is already accomplished in our ordinance, as these districts have no minimum lot size requirement.**
13. The ordinance includes incentives and requirements to preserve historic and cultural resources. **This could be incorporated with a density bonus, or it could be part of a list of possible bonuses as described in #4 above. This has also been an expectation of legislatively reviewed cases in the past, but could be helpful for by-right or adaptive re-use.**

14. Higher densities of residential and intensity of employment may be appropriate for the MU and R5 districts in areas served by WATA transit and where in accordance with the Comprehensive Plan. **Higher densities are currently expected and promoted in the Mixed Use ordinance. WATA stops have generally been included if WATA is planning a route in the vicinity of the development. Staff believes this is already accomplished.**
15. Where a site is located adjacent to a transit stop, parking should be located away from transit stop, particularly surface parking. Front yard surface parking should be limited along sidewalks near a transit stop. **The routes run by WATA are not set prior to the layout of a development. Transit stops (bus transit is currently the only transit in JCC) are usually set by WATA after a development has been established.**
16. The MU and other business districts should include increased floor area ratio and density standards for uses that provide structured parking. **There are currently no floor area ratio standards in the Mixed Use ordinance, and while not prohibited, there are no requirements for parking structures either. Special financing, such as a CDA, is usually required to support structured parking. A density bonus could be provided for developments that incorporate structured parking, or it could be part of a list of possible bonuses as described in #4 above.**
17. The zoning regulations should be inclusive and provides diverse housing opportunities by encouraging a mixture of housing types in the R-4, R-5, PUD and MU districts. **Staff is supportive of this measure, but has not yet determined how to adequately incorporate it.**
18. The PUD and MU districts could require a variation in housing types and lot sizes to avoid a uniform type of housing. **See above #17**
19. The PUD and MU districts should provide for affordable housing density bonus, similar to the residential cluster development overlay. **This could be incorporated as a density bonus, or it could be part of a list of possible bonuses as described in #4 above. This topic was also addressed in the review of the residential districts. An affordable dwelling policy is another possibility.**
20. Regulations such as form-based codes or design standards could include design guidelines so that streets, buildings, and public spaces work together to create a sense of place. **Design guidelines are presented on a case-by-case basis and are not appropriate for County-wide development.**
21. Use the MU district to create nodes of pedestrian-oriented mixed use “places” as opposed to linear commercial along major roads. The MU district will allow for the mixture of uses, density and pedestrian-oriented character of a place. **Staff will be proposing a number of “pedestrian-oriented” amendments to help create a sense of place, similar to what was presented for the EO district.**
22. Pedestrian plazas or other urban open spaces should be required as part of any major development. **See above #21.**

23. The open space that is required in the PUD, MU and residential cluster development should be required to be visible, usable and integrated with the pedestrian system – not just remnant landscaped areas, as noted previously. **See above #21.**
24. The PUD, MU and business districts should be required to provide street furniture, including street trees, benches and ornamental lights. **See above #21.**
25. Building setbacks shape the public space along the streetscape. Build-to lines can be used to create desired pedestrian oriented streetscapes in certain areas such as the MU district. The MU district should also include minimum building heights to facilitate shaping the streetscape as a human-scale public space. This could be required through a form-based code. **Form-based codes require a public input process to determine the acceptable “form”, and given the variety of areas in our County designated Mixed Use this task is not likely to be feasible. Staff will also be promoting other pedestrian oriented measures similar to what was proposed for Economic Opportunity (i.e. unified pedestrian connectivity, focal open spaces, etc.). Build-to lines could be implemented if desired, or as part of design guideline expectations (see #9).**
26. The MU district should encourage parking to be located to the side or rear of the building. Large front yard parking lots should be discouraged in the LB and B1 districts. **This was previously discussed (#10), as a possible density bonus or incentive, or it could be part of a list of possible bonuses as described in #4 above.**
27. The MU district includes a number of uses that are not pedestrian-oriented and may not contribute to the intent of the district. The MU district is being reviewed with the understanding that different mixed use areas have different function. The following uses should be reconsidered:
 - a. Automobile repair and service **Possible deletion**
 - b. Contractor equipment storage yards **Possible deletion**
 - c. Lumber and building supply **Unlikely deletion**
 - d. Manufacturing **Unlikely deletion**
 - e. Warehousing **Unlikely deletion**
 - f. Fast food restaurants (drive thru) **Possible deletion**
 - g. Petroleum storage **Possible deletion**
 - h. Solid waste transfer **Possible deletion**
 - i. Truck stops **Possible deletion**
28. Form-based codes, design standards or other regulations can be used to limit the amount of parking that may occupy frontage in areas such as the MU district. **Parking standards/requirements are being evaluated in a different section.**
29. The zoning ordinance should be used to encourage noise-compatible land use near I-64 and other major highways. This can be done through non-residential zoning where consistent with Comp Plan such as the M-1 along I-64 and the A1 district which restricts residential density. Where residential is located along major highways requirements can be added for additional setbacks/buffer strips and the PUD district and cluster development option can be used to cluster homes away from major highways. **This is more so a zoning map issue than a zoning ordinance concern. There are also right-of-way buffers of 75'-150' for PUD (75' for I-64). No action is recommended.**

F. **Conclusion**

Staff has proposed a number of ideas that address a balance of uses, construction phasing, complementary design, as well as sustainability audit items. Staff requests the Policy Committee's guidance on which measures may be the most appropriate in providing the predictability desired in the Multiple-Use districts.

Attachments:

1. Public comments from the zoning ordinance public forums